IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Revision No. 127 of 2001
(Old CLR No. 380/1999)

James Smart Cameron
S/o Shri James S. Cameron
R/o 04, Rosebery Cresant
Adenberg, Scotland, U.K. through
his power of attorney Shri Shashi Khanna
S/o Late Shri M.L. Khanna
R/o 45/50, Jhanda Bazar
Dehradun ……. Revisionist

Versus

1. **Chaman Lal Verma**
   S/o Shri Swami Das
   R/o 17/1 Nehru Road, Dehradun
2. **Km. Asha Bhandari**
   D/o Shri Bhopal Singh
   R/o 1215 Teg Bahadur Road
   Dehradun.
3. **Dr. Brijendra Kumar Bagga**
   S/o Late Shri Nathu Ram Bagga
   R/o 77/5 Neshwilla Road
   Dehradun. ……..Respondents

Shri B.P. Nautiyal, Advocate for the revisionist.

Hon'ble Prafulla C. Pant J.

Heard learned counsel for the revisionist.

This revision is directed against the order dated 05.06.1999, passed by learned Second Additional Civil Judge (Senior Division), Dehradun, in original suit No. 38 pf 1996, whereby the learned trial court has rejected the application 45-C moved under Order I Rule 10 (2) of Code of Civil Procedure, 1908, for impleadment of the present revisionist.

The application under Order I Rule 10(2) of the Code, appears to have been moved on the ground that the applicant was not only legally heir of the deceased-Barbara Shukla but also that she has also executed a registered will in his favour. From the perusal of the impugned order, it appears that the application for the applicant was rejected only on the ground that he is not necessary party, as no relief has been sought against him. The learned trial court has erred in law by refusing the application on said ground. Order I Rule 10(2) of the Code reads as under:-

*"**Court may strike out or add parties:**- The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added,"*

From the above provision, it is clear that the power could have been exercised by the court not only in respect of necessary parties but to implead any party which enables the court effectually and completely to adjudicate and settle all questions involved in the suit. Since the applicant had sought impleadment on the ground that he owns the property in suit, that too with substantial reasons, claiming inheritance and also on the basis of will, which definitely required examination by the Court before adjudicating the dispute in the suit. Technically the applicant may not be

the necessary party as no relief has been sought against him and it may be a ground not to reject the plaint but scope of Order I Rule 10(2) is different. In view of principle of law contained in Ramesh Hira Chand Vs. Municipal Corporation (1992) 2 S.C.C. 524, the court is empowered to implead a party who has shown strong legal interest in the litigation before the court. The present case is squarely covered under the principle laid down by Hon'ble Apex Court in afore mentioned case.

Therefore, for the reasons above, the learned trial court has committed material illegality in rejecting the application of the applicant under Order I Rule 10(2) of the Code of Civil Procedure, 1908, as such, the revision deserves to be allowed. Accordingly, the revision is allowed. The impugned order dated 05.06.1999, passed in original suit No. 38 of 1996 by Additional Civil Judge (Senior Division) Dehradun, is set aside. The application 45-C, moved before the trial court shall stand allowed. The interim order dated 11.10.1999, is vacated.

(Prafulla C. Pant, J.)

Dt: 21.03.2006
Sweta